IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3209 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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GOVINDBHAI MANGALBHAI C/O GUJARAT MAJDOOR PANCHAYAT

Versus

M/S MACHINERY STORES TRADERS

Appearance:

MR DA SURANI for Petitioner No. 1

MR IA PATEL for Respondent No. 1

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 12/07/2001

ORAL JUDGEMENT

The present petition is filed by Govindbhai Mangalbhai against Messrs Machinery Stores Traders being aggrieved by the judgement and award dated 12.10.1999, in Reference (LCA) No.1062 of 1982 passed by the Labour Court, Ahmedabad.

2. The case of the petitioner is that he was appointed as a Machine Operator in the year 1977 with the respondent management. He was working with the respondent management as Milling Machine Operator. In the year 1981 a notice for misconduct was served upon one Jivanbhai Somnath, a co- employee of the petitioner for which the petitioner being a Union leader, requested the management to withdraw the said notice. But the said notice was not withdrawn by the management and it was alleged that the petitioner instigated the workers for resorting to "go slow". The petitioner was then served with the show cause notice on 27.8.1981. Thereafter, a charge sheet was also served and an inquiry was conducted. Said inquiry was challenged by the present petitioner in Reference (LCA) No.1062 of 1982. The Labour Court passed an order on 18.2.1992, and held that the inquiry was illegal and improper and the first party concerned was given a chance to lead evidence to prove their charge.

3. Pursuant to the aforesaid order de novo inquiry was held and in that inquiry also charges levelled against the petitioner stood proved. Thereafter the impugned order came to be passed. The reference filed by the petitioner workman came to be rejected. The learned Judge has discussed in paras 14 and 15 that the respondent management has proved the charge before the Court in the de novo inquiry and thus, the misconduct on the part of the petitioner workman stands proved on the basis of the deposition of the witnesses of the management, witnesses of the workman and their cross examination. The learned Judge has also observed that on account of such misconduct the respondent management has suffered irreparable loss. It is also observed that if all the workers getting together to resort to "go slow" policy the same will result into closure of the company's production process and that might result into closure of the company which will result into unemployment of all the workmen of the company. The learned Judge observed that this kind of misconduct cannot be tolerated in any circumstances and therefore, the action which is taken against the petitioner workman is just and proper.

4. In view of the aforeaid discussion this Court does not find any substance. The petition is dismissed. Rule is discharged. No order as to costs.

(Ravi R. Tripathi, J.)

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